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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,050	07/14/2003	Satoshi Yashiro	00862.023134.	6914
5514 7590 07/13/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER DANG, DUY M	
			ART UNIT 2624	PAPER NUMBER
			MAIL DATE 07/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/618,050

Applicant(s)

YASHIRO ET AL.

Examiner

Duy M. Dang

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 8,9,17,18 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,10-16,19-26 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of invention of Species I, claims 1-7, 10-16, 19-26, and 28, in the reply filed on April 26, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Therefore, claims 8-9, 17-18, and 27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention of Species II, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 19 and 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In this case, claims 19 and 22 are directed towards "a program." These claims 19 and 22 do not necessarily invoke "a computer readable storage medium" as required to meet 35 USC 101. A "program" per se is an abstract and intangible idea that is considered "functional descriptive material." Any such functional descriptive material must be embodied on a computer readable storage medium in order for it to be statutory. Since the instant claims do not define any such medium, the claimed invention is not directed to statutory subject matter.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2624

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7, 10-16, 19-23, 25-26, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by anticipated by Tojo (US Pub. No. 2003/0016291 A1. Referred as Tojo hereinafter).

The applied reference has a common Inventor (Hiroshi Tojo) with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Tojo teaches an image processing apparatus comprising: imaging means for imaging an object and obtaining moving image data composed of a plurality of frames (i.e., “moving image” mentioned at line 1 of paragraph [0005] and “photographing unit” of figure 2); storing means for storing additional information indicating contents of events that occurred during the imaging of the moving image data by said imaging means into a storage (see items 1020 and 1030 of figure 1 and 2060 and 2070 of figure 2; paragraph [008]: note that “camera operation information” can be referred to claimed additional information; “time code” depicted at S10052 of figure 12 also refers to the so called “additional information”); dividing means for dividing the moving image data for one shot into a plurality of sub-shots based on the events indicated by said additional information stored in the storage (see paragraph [0005]); and

Art Unit: 2624

selecting means for selecting a key frame from the moving image data of each sub-shot divided by said dividing means in accordance with the additional information (see item 4030 of figure 4 and paragraph [0045]).

Regarding claims 2-3, Tojo further teaches wherein the additional information includes an action information associated with an action which was made during the imaging of the moving image data and wherein the action information includes information associated with a zoom action (see zoom operation/button mentioned at paragraph [0051]).

Regarding claims 4-5, Tojo further teaches wherein the additional information includes an environment information associated with an imaging environment during the imaging of the moving image data and wherein the environment information includes information associated with a pan action (see pan operation mentioned at paragraphs [0006] and [0050]).

Regarding claim 6, Tojo further teaches wherein the moving image data acquired from the beginning to the end of the imaging by the imaging means corresponds to said one shot (see paragraph [0005]).

Regarding claim 7, Tojo further teaches wherein the additional information includes an action information associated with an action which was made during the imaging of the moving image data and an environment information associated with an imaging environment during the imaging of the moving image data (see rejection applied to claims 2-5 above. Note that zoom operation and pan operation in Tojo correspond to claimed action information and environment information), and wherein said selecting means selects the key frame using different criteria depending on whether the key frame is selected in accordance with the action information or the

Art Unit: 2624

environment information (see paragraph [0021]. Note that discrimination means performs based on the predetermined operation which is zoom operation and/or pan operation).

Regarding claims 10, 23, and 28, these claims are also rejected for the same reasons as set forth in claim 1 above.

Regarding claims 11-12 and 25, these claims are also rejected for the same reasons as set forth in claims 2-3 above.

Regarding claims 13-14 and 26, these claims are also rejected for the same reasons as set forth in claim 4-5 above.

Regarding claim 15, this claim is also rejected for the same reasons as set forth in claim 6 above.

Regarding claim 16, this claim is also rejected for the same reasons as set forth in claim 7 above.

Regarding claim 19, the statements applied to claim 1 above are incorporated herein. Tojo further teaches a computer program (see paragraphs [0042] and [0119]).

Regarding claims 20-22, these claims are also rejected for the same reasons as set forth in claims 1 and 7 above.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tojo.

The applied reference has a common inventor (Hiroshi Tojo) with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Regarding claim 24, Tojo fails to explicitly teaches wherein said input means includes reproducing means for reproducing the moving image data from a rerecording medium. However, Tojo does teach compression at paragraph [0039] and network at figures 3 and 10. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Tojo to include reconstruction means so that compressed images stored at storage medium 2070 of figure 2 in Tojo can be reconstructed. The motivation for doing so would provide aid image transmission by compressing and storing image and then reconstructing such image in networking environment.

Art Unit: 2624


Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy M. Dang whose telephone number is 571-272-7389. The examiner can normally be reached on Monday to Friday from 6:00AM to 2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dmd
7/07


DUY M. DANG
PRIMARY EXAMINER